HIGH COURT OF CHHATTISGARH AT BILASPUR

Cr. M.P. No. .218 of 2007

PETITIONER : Ashit Bhattacharya

VS.

RESPONDENTS : State of Chhattisgarh & another

And

Cr. M.P. No. .219 of 2007

PETITIONER : Dr. Suresh Agrawal

VS.

RESPONDENT : State of Chhattisgarh

O R D E R

POST ON 3rd SEPTEMBER 2007

Sd/-
Dhirendra Mishra
Judge

HIGH COURT OF CHHATTISGARH AT BILASPUR

Cr. M.P. No. .218 of 2007

PETITIONER : Ashit Bhattacharya, aged about 53 years, Son of R.N. Bhattacharya, resident of Raman Mandir Ward, Phaphadih, Police Station : Kumhari, District : Raipur (C.G.)

VS.

RESPONDENTS :

1. State of Chhattisgarh through the Police Station : Khamtarai, Raipur, District : Raipur.

2. Dr. Suresh Agrawal, aged about 64 years, Son of late Sagarchand Agrawal, I-18, Anupam Nagar, Raipur (C.G.)

(Earlier address which is mentioned in the impugned order is changed)

And

Cr. M.P. No. .219 of 2007

PETITIONER : Dr. Suresh Agrawal, aged about 57 years, Son of Sagarchand Agrawal, resident of I-18, Anupam Nagar, (C.G.) Raipur, District : Raipur.

VS.

RESPONDENT : State of Chhattisgarh through the Police Station : Khamtarai, Raipur, District : Raipur.

Present:

Mr. Vishnu Koshta, counsel for the petitioners.
Mr. G.K. Beriwal, Dy. A.G. for the State/respondent.

O R D E R

(3rd September 2007)

Dhirendra Mishra, J

1. Cr.M.P.No. 218/2007 and Cr.M.P.No. 219/2007 filed by Ashit Bhattacharya and Dr. Suresh Agrawal, respectively are being disposed of by this common order as both the petitioners in their petitions under Section 482 of the Code of Criminal Procedure have prayed for setting aside the order dated 21.11.2005 passed in Criminal Revision No. 238/05 whereby learned XIV Additional Sessions Judge (FTC), Raipur

has dismissed their revision against the order dated 9th March 2005 passed in Criminal Case No. 1766/04 by Judicial Magistrate First Class, Raipur whereby charge under Sections 379 of the IPC and 39 & 42 of the Indian Electricity Act, has been framed.

2. Allegation against the petitioners is that premises of M/s Sal Udyog Private Ltd. situated at industrial area, Bhanpuri, Raipur was inspected by the authorities of the Electricity Board on 20.1.2000 and it was found that the industry was drawing power from the 100 KV transformer of the Board by directly connecting the same with a cable and attaching load of 70 horse power of the industry. Thus, they were committing theft of electricity. Appliances used by the industry for theft were seized from Ashit Bhattacharya whereas allegation against petitioner Dr. Suresh Agrawal is that he is director of the industry who had authorized Ashit Bhattacharya to enter into an agreement with the Board vide his letter dated 31.12.1998.

3. Learned counsel for the petitioners submitted that neither Dr. Suresh Agrawal was director of the company nor Ashit Bhattacharya was employee of the company at the time of incident as is evident from the documents of Annexure P/1, a letter written by the company to the S.H.O., P.S. Khamtarai, Raipur. The documents filed by the petitioners of Annexure P/3 have not been considered at the time of framing of charges.

4. I have heard learned counsel for the petitioners and have gone through the material available on record.

5. Learned trial court vide order dated 22nd February 2005 after hearing counsel for the accused persons has arrived at the conclusion that from the evidence available in the charge sheet it is evident that accused Dr. Suresh Agrawal has signed the agreement as director on behalf of the industry and he had authorized Ashit Bhattacharya to enter into an agreement with the Board. During inspection accused Ashit

Bhattacharya was present in the industry and he had signed the Panchanama, map, seizure memo etc. as representative of the industry and as such, prima facie evidence of offence under Section 379 of the IPC and 39 & 42 of the Indian Electricity Act, is available in the charge sheet and charge has been framed accordingly on 9.3.2005.

6. The above finding has been subsequently affirmed by the learned revisional Court. Both the Courts below have recorded a prima facie satisfaction that evidence for framing charge under the aforesaid sections is available in the charge sheet, which is based on the evidence available on record. Learned counsel for the petitioners could not point out any illegality or infirmity or perversity committed by the Courts below, while passing the above orders.

7. In the result, the petitions being without substance are liable to be dismissed and are hereby dismissed at the admission stage itself.

Sd/-
Dhirendra Mishra
Judge